

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION

JOYCE LIEBOLD,)	
)	
Plaintiff,)	
)	Civil Action No. 3:17-cv-00297
v.)	
)	
K-VA-T FOOD STORES, INC.)	
)	
Defendant.)	

NOTICE OF REMOVAL

K-VA-T Food Stores, Inc. d/b/a Food City ("Defendant"), pursuant to 28 U.S.C. § 1441, respectfully removes this case to the United States District Court for the Eastern District of Tennessee. The grounds for removal are:

1. On June 6, 2017, a civil action was filed against Defendant, the only Defendant named and served in this matter, in the Circuit Court of Sevier County, State of Tennessee, entitled Joyce Liebold v. K-VA-T Food Stores, Inc., Case No. 17-CV-365-I.

2. True and correct copies of all process, pleadings and orders served upon Defendant are attached hereto as the following exhibits:

Exhibit A - Summons
Exhibit B - Complaint

3. Plaintiff's Complaint and Summons were served on Defendant on June 14, 2017. Other than the June 14, 2017 service, no proceedings have been had in this matter. This Notice of Removal is filed within 30 days of the first day of service pursuant to 28 U.S.C. § 1446(b).

4. This Notice of Removal is timely under the provisions of 28 U.S.C. § 1446(b).

5. This is a case over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331, and which may be removed to this Court by Defendant pursuant to 28 U.S.C. § 1441, in that it is a civil action in which a federal question arises under the laws of the United States.

- (a) Plaintiff has alleged a violation of The Americans With Disability Act, as amended, 42 U.S.C. § 12101 et seq.

6. In addition, this is a case over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and which may be removed to this Court by Defendant pursuant to 28 U.S.C. § 1441, in that it is a civil action in which the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and is between citizens of different states.

- (a) Upon information and belief, Plaintiff was at the time she commenced this case, and still is, a citizen of the Tennessee.
- (b) Defendant was at the time Plaintiff commenced this case, and still is, a corporation incorporated only under the laws of the State of Virginia, with its principal place of business in the State of Virginia (Exhibit C – Affidavit of Robert L. Neeley).
- (c) Defendant was not at the time Plaintiff commenced this case, has not been, and is not now, a citizen of the State of Tennessee, the state in which Plaintiff commenced this case.
- (d) Plaintiff seeks an award of back pay, front pay, compensatory damages, and punitive damages. The prayer for relief in the Complaint seeks such damages in an amount “not to exceed \$300,000.00”. Therefore, it is clear that the amount in controversy exceeds \$75,000.00.

7. Based upon the preceding facts, this Court has original jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 1332, and this case is therefore properly removable to this Court pursuant to 28 U.S.C. § 1441(b).

8. Defendant states that true and correct copies of this Notice of Removal will be filed with the Clerk in the Circuit Court of Sevier County, State of Tennessee, promptly after the filing of this Notice of Removal.

WHEREFORE, Defendant prays that the above described action pending in the Circuit Court of Sevier County, State of Tennessee, be removed therefrom to this Court.

Respectfully submitted,

/s/ Howard B. Jackson
Howard B. Jackson, BPR # 021316
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Certificate of Service

I hereby certify that a true and exact copy of the foregoing **Notice of Removal** has been served upon Jesse D. Nelson & Kayla L. Towe, attorneys for Plaintiff, at 10263 Kingston Pike, Knoxville, Tennessee 37922, by placing a copy of the same in the United States mail, postage prepaid, and via the court's electronic filing system this 12th July, 2017.

/s/ Howard B. Jackson
Howard B. Jackson